

STATE OF MAINE
AROOSTOOK, ss.

SUPERIOR COURT
LOCATION: Caribou
Docket No. CARSC-CV-2020-019

Eastern Alliance Insurance)
Company on behalf of Joel)
Jantzen, minor)
Plaintiff)
v.)
Harold Haines, Inc., d/b/a Haines)
Manufacturing Co., Inc.,)
Defendant)

ORDER ON MOTIONS
IN LIMINE, MOTION
FOR LEAVE TO AMEND
and
PROCEDURAL ORDER

Currently pending before the Court are five (5) Motions in Limine filed by the Plaintiff that were contested. The Court has reviewed the motions, the objections, the replies, and considered the arguments of counsel presented at the Zoom hearing on March 3, 2022. The Court has deferred ruling on the motions due to the Plaintiff's representation at hearing that Plaintiff would be seeking leave to amend the complaint to remove Count 2, the negligence claim, as this would impact the Court's decision on some of the motions in Limine

Plaintiff filed a motion for leave of court to amend complaint on March 28, 2022. Defendant filed an objection to Plaintiff's motion for leave of court to amend complaint on April 13, 2022. The Court has determined that no hearing is necessary on the motion for leave. The Court issues the following orders related to the Motions in Limine and Motion for Leave to Amend Complaint:

1. *Plaintiff's Motion for Leave of Court to Amend Complaint.* **MOTION GRANTED.** As an answer has been filed to the First Amended Complaint and there is no consent by Defendant for an amendment to the pleadings, Plaintiff may amend his pleading "only by leave of court . . . and leave shall be freely given when justice so requires." *M.R.Civ.P. 15(a)*. Plaintiff is seeking to constrict the issues

in dispute rather than expand them. Defendant shall have thirty (30) days from the docketing of this order to file a responsive pleading to the Plaintiff's Second Amended Complaint.

2. *Plaintiff's Motion in Limine to Preclude reference to Eastern Alliance Insurance Company.* **MOTION GRANTED, subject to reconsideration based upon the evidence presented at trial.** The Court is not convinced on this record that the role of the insurance company is relevant to the task to be completed by the jury. The court further finds the rationale for the exclusion of references to an insurance company participation for a defendant is also applicable for an insurance company that participates in the name of the injured party.
3. *Plaintiff's Motion to Exclude Bradstreet Family Farms from the verdict form.* **MOTION GRANTED.** As Bradstreet Family Farms is not a party, the jury in its work with the verdict form must make determinations regarding liability and damages as to the parties to this litigation only.
4. *Plaintiff's Motion to Exclude evidence of fault on the part of Joel Jantzen.* **MOTION GRANTED, in part.** Defendant will be prohibited from arguing to the jury that Jantzen was negligent because he failed to discover the defect in the bulk body or to guard against the possibility of its existence. *Austin v. Raybestos-Manhattan, Inc.*, 471 A.2d 280, 286, (Me. 1984). The jury will be permitted to hear the evidence as to what occurred before, during, and after the accident for context and a chronological narrative of the events. The manner in which the machine was used must be considered by the jury. The jury must determine whether Jantzen's use was reasonably foreseeable. See, Alexander, *Maine Jury Instruction Manual*, § 7-25 (2021). The foregoing notwithstanding, in the event Defendant produces evidence to support the contention that Jantzen was aware of the defect and encountered that risk regardless of the defect,

Defendant will be allowed to present such evidence and to make that argument. *See, Id.*

5. Plaintiff's Motion to Exclude evidence of conduct of Jantzen's employer, Bradstreet Family Farms. **MOTION GRANTED, in part.** Defendant will be prohibited from arguing to the jury that Bradstreet Family Farms was negligent because it failed to discover the defect in the bulk body or to guard against the possibility of its existence. *Austin v. Raybestos-Manhattan, Inc.*, 471 A.2d 280, 286, (Me. 1984). The jury will be permitted to hear the evidence as to what occurred before, during, and after the accident for context and a chronological narrative of the events. As noted above, evidence regarding the manner in which the machine was used at the time of the incident will also be permitted.

6. *Plaintiff's Motion to Exclude Testimony of the Designated Expert.* Voir Dire of this witness will be necessary to allow the court to rule on Plaintiff's Motion. The Clerk shall coordinate with counsel to schedule a ZOOM Voir Dire hearing with Perlmutter. **Clerk to schedule and send notice.**

The clerk is instructed to incorporate this Order by reference into the docket pursuant to M.R.CIV.P. 79(a).

Dated: 4/25/2022



Justice, Maine Superior Court

ENTERED ON THE DOCKET 4-25-22